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February 19, 2015

VIA ECF

Hon. J. Paul Oetken, U.S.D.J.
Hon. Naomi Reice Buchwald, U.S.D.J.
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse - 500 Pearl St.
New York, New York 10007-1312

Re: United States v. Michael Zemylansky et al. 12 -CR -00171 (JPO)
Mark Shapiro v. Daniel Goldman, et al. 14 CV-10119 (NRB)

Hon. Sir and Madam:

The undersigned represents defendant, Rivkin Radler LLP in the above-referenced civil action, *Shapiro v. Goldman, et al.*, (the "Civil Action"). This letter is issued in response to the Related Case Statement filed by counsel for plaintiff Shapiro in the Civil Action, in order to object to the request to transfer the Civil Action currently pending before Judge Buckwald to Judge Oetken, who was assigned to the criminal case against Mark Shapiro.

It is respectfully submitted that the two above actions, one a criminal prosecution and the other a civil action, are not "related cases" as defined in the Rules For the Division of Business Among District Judges, Southern District, Rule 13.

The fact that the Civil Action has only one party in common with the criminal prosecution and that the legal and factual issues presented are widely disparate, aside, by definition a criminal case and a civil case are not treated as related cases under Rule 13 for the purposes of assignment of cases. More specifically, Rule 13(a)(2)(C), specifically states:

(C) Criminal cases are not treated as related to civil cases.

Moreover, as the "Related Case Statement" filed on behalf of plaintiff Shapiro clearly indicates "on December 30, 2013, the indictment against Dr. Shapiro was dismissed per an order



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nolle prosequi." As such, the criminal prosecution of Mark Shapiro is no longer pending before the court, notwithstanding the current status of the prosecution of any other individual(s) under the docket number of that case, which we believe bare no factual relationship to the prosecution of Shapiro, or to the Civil Action.

Accordingly, it is respectfully requested that plaintiff's request to transfer the Civil Action from Judge Buckwald to Judge Oetken as a "related case," be denied.

Respectfully Submitted,

Rivkin Radler LLP

A handwritten signature in black ink, appearing to read "Peter C. Contino". The signature is fluid and cursive, with the first and last names being more prominent.

By: Peter C. Contino (PCC 8611)

cc: Hon. J. Paul Oetken (via facsimile, courtesy copy)
Hon. Naomi Reice Buchwald (via facsimile, courtesy copy)